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AUG 7 1977

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code.

Your submitted information discloses that you were organized on [REDACTED] pursuant to the laws of the State of [REDACTED] as a non-profit unincorporated association. Your purpose, as stated within your Certificate of Association, includes the development of a residential condominium complex and the sale of individual condominium units. Your activities are to provide a convenient means of administering the condominium by the owners, to provide for the common ownership, operation, management, maintenance, and use of the common areas of the condominium, and to avoid misuse of each individual personal unit. Your receipts are primarily derived from membership dues and assessments. Your expenditures are primarily devoted to electricity, insurance, maintenance and supplies relating to the condominiums.

Section 501(c)(3) of the Code provides for the recognition of exemption of corporations, and any community chest, fund or foundation organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, and which does not participate in, or intervene in any political campaign on behalf of a candidate for public office.

Section 1.501(c)(3)-1(b)(1) of the Income Tax Regulations provides that an organization is organized exclusively for one or more exempt purposes only if its articles of organization limit its purposes to one or more exempt purposes and do not expressly empower the organization to engage, other than as an insubstantial part of its activities, in activities that do not further exempt purposes. In no case shall an organization be considered organized exclusively for one or more exempt purposes if, by the terms of its articles, the purposes for which such organization is created are broader than the purposes specified in Code section 501(c)(3).

[REDACTED]

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations states that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. It is therefore necessary for an organization to establish that it is not organized or operated for the benefit of designated individuals, or shareholders of the organization.

Your stated purpose within your Articles of Association includes the development of a residential condominium complex and the sale of individual condominium units. Your activities are to provide a convenient means of administering the condominium by the owners; to provide for the common ownership, operation, management, maintenance, and use of the common areas of the condominium; and to avoid misuse of each individual personal unit. Such provisions within an organization's organizing document and such activities are not consistent with an organization being organized and operated exclusively for the exempt purposes specified within Code section 501(c)(3) and the underlying regulations. You therefore do not qualify as an organization exempt from Federal income tax under section 501(c)(3) of the Code.

In accordance with this determination, you are required to file Federal income tax returns on Form 1120. Your attention is called to Code section 528, which provides certain procedures by which qualifying condominium associations may elect to be treated as a tax exempt organization. The enclosed Publication 588 describes the requirements for exemption under Code section 528.

If you do not accept our findings, we recommend that you request a conference with a member of our Regional Office of Appeals. Your request for a conference should include a written appeal giving the facts, law and any other information to support your position as explained in the enclosed Publication 892. You will be contacted to arrange a date for a conference. The conference may be held at the Regional Office or, if you request, at any mutually convenient district office. If we do not hear from you within 30 days from the date of this letter, this determination will become final and a copy of this letter will be sent to the appropriate State officials in accordance with section 6104(c) of the Code.

If you do not protest this proposed determination under Code section 501(c)(3) in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies.

[REDACTED]

Section 7428(b)(2) of the Code states, in part, that "A declaratory judgement or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted all administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,

[REDACTED]
District Director

Enclosures: Publication 588
Publication 892

cc: State Attorney General [REDACTED]